

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL HOWARD HUNTER,

Plaintiff,

v.

KENNETH ALDRIDGE, et al.,

Defendants.

CASE NO. C90-616C

ORDER

This matter comes before the Court on Plaintiff's "Motion to Vacate, for Leave To Amend and To Treat this Action as a Petition for Writ of Habeas Corpus and for Recusal of John C. Coughenour and Appoint Counsel." (Dkt. Nos. 9, 10, 11) ("Mot."; "Affidavit"). The Court presently takes up the motion for recusal and will RENOTE the remaining requests in Plaintiff's motion for consideration after the recusal matter has been ruled upon. The motion for recusal is governed by 28 U.S.C. § 144 and Local General Rule 8.

Plaintiff alleges bias against him in this matter. (Mot. 11; *see also* Affidavit 1.) Pursuant to Local General Rule 8(c), the undersigned has reviewed Plaintiff's motion and exhibits and perceives no valid basis for the allegation and no justification for recusing voluntarily. A judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. § 455(a).

1 However, recusal is required “only if the bias or prejudice stems from an extrajudicial source and not
2 from conduct or rulings made during the course of the proceedings.” *Leslie v. Grupo ICA*, 198 F.3d
3 1152, 1160 (9th Cir. 1999) (quoting *Toth v. Trans World Airlines, Inc.*, 862 F.2d 1381, 1388 (9th Cir.
4 1988)). Judges have an affirmative duty to recuse themselves when a “reasonable person with knowledge
5 of all the facts would conclude that the judge’s impartiality might reasonably be questioned.” *Leslie*, 198
6 F.3d at 1159 (quoting *Yagman v. Republic Ins.*, 987 F.2d 622, 626 (9th Cir. 1993)). Plaintiff offers no
7 evidence from which a reasonable person could conclude that the undersigned’s impartiality in this case
8 could reasonably be questioned on account of something more than his prior rulings in this case. The
9 mere fact that the undersigned issued orders adverse to Plaintiff’s claim does not constitute bias.

10 Further, pursuant to Local General Rule 8(c), the motion for recusal is hereby REFERRED to
11 Chief United States District Judge Robert S. Lasnik. The remainder of Plaintiff’s requests in his motion
12 will be RENOTED for decision subsequent to the Chief Judge’s decision on Plaintiff’s motion for recusal.

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14 SO ORDERED this 21st day of October, 2005.

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18 John C. Coughenour

19 United States District Judge
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